

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

MICROSOFT CORPORATION,  
Plaintiff,  
v.  
WEIDMANN ELECTRICAL  
TECHNOLOGY INC.,  
Defendant.

Civil Action No. 5:15-cv-153

STATE OF NEW JERSEY )  
                          )  
                          ) ss  
COUNTY OF ESSEX      )

AFFIDAVIT OF FLORIAN BÜCHTING

I, Florian Büchting, upon my oath, depose and say as follows:

1. I am the Corporate Information Officer (CIO) employed by Weidmann Electrical Technology AG in the Corporate IT group. I manage the IT requirements for the group of centrally managed companies owned by WICOR Holding AG (WICOR), a Swiss company. I have served in a similar capacity since February 2008. I am competent to testify to the facts set forth in this Affidavit, which are based on my personal knowledge and information.

2. WICOR is a global manufacturing group of companies that collectively employs approximately 3,250 persons worldwide. Of these approximately 3,250 worldwide employees, a number of employees have roles in manufacturing that do not require the use of computers in their work. WICOR and Weidmann Electrical Technology AG are both Swiss companies located at the corporate headquarters in Rapperswil, Switzerland. Other WICOR group companies are located primarily in Mexico, China, France, the Netherlands, Switzerland, Turkey, Ukraine, Croatia, Brazil, Great Britain, as well as the United States and Canada. The majority of these locations are centrally managed by Corporate IT. There are a few locations where most computer users are not managed through Corporate IT. These

decentralized locations include, primarily, facilities in China and Great Britain. For computer users who are not managed through Corporate IT, their local IT management was responsible for acquiring and managing software.

3. No licenses obtained under the 2009 and 2010 Select Agreements have been transferred to or used by any of the WICOR group of companies except the three U.S. and Canadian Companies. WICOR never took any actions to accept or approve the 2009 and 2010 Select Agreements.

4. WICOR started its project to centralize most WICOR group companies under the direction and control of the Corporate IT group in later 2009. The goal was to centralize IT infrastructure, delivery of IT services and to develop centralized software management, which includes license purchasing and deployment. As part of the project, the Corporate IT group first began to physically consolidate servers for organization-wide use in Switzerland. These servers were to manage applications, for data storage and processing and for most other IT needs of the centrally managed companies.

5. Each WICOR group centrally managed company today uses desktops and laptops purchased primarily from Dell, Inc., an original equipment manufacturer (OEM) that also provides software and appropriate licensing for operating systems and applications along with the purchase of the computers. Corporate IT initially installed the WIN XP operating system and Office 2003 applications on centrally managed computers. Corporate IT also used software sold by Citrix Systems, Inc. that allows remote access to the central servers in Switzerland that provide WIN XP desktop, Office 2003 and other applications. Corporate IT migrated from WIN XP to WIN 7 and from Office 2003 to Office 2010 starting in 2015 pursuant to the Corporate IT roadmap.

6. As an additional aspect of centralization, WICOR group computers loaded with operating systems and applications have been migrated, wherever feasible, to the use of

thin clients with no Microsoft operating systems or software loaded on the machines. Thin clients connect remotely to the servers in Switzerland (using Citrix software), which provide the operating systems and user applications for the thin client users.

7. Centralizing the Corporate IT services is considered best practices among global enterprises and allows many advantages over a decentralized system. WICOR group companies using the centralized services provided by Corporate IT benefit from economies of scale, as consolidating IT services allows the use of a central Help Desk and user support group, centralized software and hardware purchasing and license management, data security protection, engineering and deployment of software. Using this approach creates efficiency, since a small group of IT professionals can meet the needs of many companies without duplicating resources. Standardization also allows better communication and better supports inter-company collaboration.

8. Weidmann Electrical Technology Inc., the defendant in this case, WICOR Americas, Inc., the parent company of the Defendant, and Weidmann Electrical Technology Canada, LTD. are all centrally managed WICOR group companies. Prior to the transition beginning in 2009, however, these three U.S. and Canadian Companies were responsible for their own IT needs. Mark Vaal, Director of Information Technology (IT) for the Defendant Weidmann, and his team were in charge of those needs. Mr. Vaal had no responsibility to procure Microsoft software or licenses for any of the WICOR companies other than the U.S and Canadian Companies.

9. With respect to the centrally managed WICOR group companies today, Corporate IT purchases volume licenses from vendors in Europe. The table below summarizes the current version usage and the entitlements (which are greater than the usage numbers) for the most extensively used Microsoft software. The exhibits listed in the Usage Exhibits column are downloaded from the active directory that is accessible by Defendant

Weidmann from the United States. The exhibits listed in the Entitlement Exhibits column are true copies of contracts between Weidmann Electrical Technology AG (or its predecessor) for the purchase of software from vendors in Europe. Some of the Exhibits have English translations. For those Exhibits that are in German without translation, a translation will be provided if requested.

Microsoft product	Current Version Usage	Usage Exhibits	Entitlements (Exceed Usage)	Entitlement Exhibits
Microsoft AD User Accounts	2,068	A	n/a	n/a
Microsoft Office 2010	1,489	B	1,701	F,G,H,I,J
Microsoft Access 2010	284	C	306	F,G,K,L
Microsoft Project 2010	165	D	250	F,G,K
Microsoft Visio 2010	85	E	115	F,G,K
Microsoft Windows RDS CAL 2008	1,398		1,850	F,G,M,N
Microsoft Windows Server CAL 2012	2,068	A	2,175	O,P,Q,R,S
Server Inventory	102		167	Q,R,T,U,V,W, X,Y,Z
WIN 7 Operating System	948		1,170	AA

Dated this 9th day of September, 2016.



FLORIAN BÜCHTING

Sworn and subscribed to before me  
this 9<sup>th</sup> day of September, 2016



0110593      BONNIE SUE L. JORDAN  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 8/29/21